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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,248	04/26/2001	Kenichi Higashi	2185-0532P	7514
2292	7590	04/29/2005	EXAMINER	
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FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 04/29/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/842,248

Filing Date: April 26, 2001

Appellant(s): HIGASHI ET AL.

MAILED

APR 29 2005

GROUP 1700

Raymond C. Stewart
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 23, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims s 1-19 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,725,712 SPAIN et al 03-1998

5,829,804 SAEKI et al 11-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spain et al (U.S. Patent 5,725,712) in view of Saeki et al (U.S. Patent 5,829,804).

Spain et al disclose a laminate structure comprising carrier film such as polyester (col. 23, lines 49-50), coated with acrylic clear coat. Over the acrylic clear coat, an acrylic paint (colored) coat applied. Size coat applied over the paint coat. Thus formed laminate is laminated to a thermoplastic polypropylene substrate. The size coat can be chlorinated polypropylene. The thermoplastic polypropylene substrate can contain filler (Example 1 and Example 12 and 13). Spain et al' method has similar steps as claimed in the instant invention. Spain et al's article is directed to a part of car. Spain et al also suggest that other articles can be made (col. 7, lines 53-58). Spain et al disclose thickness of clear coat (45) from about 0.5 to about 1.5 mils (i.e. about 12.5 to 38 microns) (col. 9, lines 24-25, col. 11, line 20), thickness of color coat (46) from about 0.5 to about 1.5 mils (col. 13, lines 56-57), thickness of size coat (47) from about 0.1 to about 1.0 mil (col. 16, lines 35-36) and thickness of backing sheet (72) from about 10 to

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about 40 mils with 20 mils thickness being preferred (col. 17 lines 36-38) (see Fig. 7). The backing sheet can be ABS, thermoplastic polyolefin, polyester, amorphous nylon etc. (Col. 17, lines 20-28 and col. 33, lines 1-40). Spain et al also suggest size coat of chlorinated polyolefin when backing sheet is a thermoplastic polyolefin. The article of Figure 7 is a laminated film. Spain et al teach dry paint transfer techniques to produce exterior plastic car body members (col. 1, lines 18-25). Spain et al disclose that their paint transfer technique eliminates solvent emissions associated with spray painting (col. 1-33 lines 40-57). Spain et al fail to disclose polypropylene substrate containing filler and thermoplastic elastomer.

Saeki et al teach polyolefin composition for making reduced wall thickness of automobile bumpers, which are also exterior plastic car body members (col. 2, lines 15-20). Saeki et al's composition provide paintable surface, which can be painted with application of chlorinated polypropylene primer, and acrylic paints (col. 7, lines 59-68). Saeki et al also suggest use of pigment and fibrous fillers (col. 7, lines 22-35). Saeki et al disclose addition of talc from 0.6 to 30 parts by weight per 100 parts by weight of the combination of components (A) and (B). Components (A) and (B) are propylene resins (Col. 2 lines 40-50, col. 6 lines 20-24). Saeki et al's Example 1 shows 65% of combined components (A) and (B) and 30% ethylene-propylene copolymer rubber (EPM) as component (C) (col. 2, lines 50-51).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of this invention made to utilize Saeki et al's compositions for making backing

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sheet of Spain et al for improving paint bonding, impact strength and improved surface quality.

11. In reference to rejection of claims under 35 USC § 103(a) as obvious over Spain et al (U.S. patent 5,725,712) in view of Saeki et al (U.S. Patent 5,829,804), appellants mainly argue that Spain et al relates to dry paint transfer techniques while Saeki et al disclose an automobile bumpers made of a special resin composition that has an excellent paintability. Saeki et al only suggests incorporation of component (E) polyhydroxy polyolefin in a car bumper to provide the paintability of the bumper. Paintability in Saeki et al refers to traditional painting and does not refer to dry paint transfer or injection cladding. Thus Saeki et al teaches away from dry paint transfer and injection cladding. Saeki et al teaches away from using a composition that does not include component (E) where one is concerned with the adhesiveness between the size coat and the color and the color as disclosed in Spain et al.

These arguments are unpersuasive because the component (E) is not an essential component for paintability. As per Saeki et al paintability of bumper is improved by combined use of EPM and EPDM (col. 5 line 57 to col. 6, line 3). Saeki et al also suggest primer coat of acrylic-chlorinated polypropylene prior to painting. The primer coat of Saeki et al and size coat of Spain et al has an equivalent function that is to improve adhesion of paint or color coat to underlying substrate. Saeki et al do not teach or suggest to eliminate dry paint transfer. Furthermore, the invention as claimed is inclusive of additional components such as component (E) of Saeki et al. The

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component (E) is suggested by Saeki et al as an optional component to further improve adhesion of color coat to underlying substrate.

The examiner requests the opportunity to present arguments at the oral hearing.

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March 16, 2005